



State of Utah

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Environmental Quality

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DAQ-024-07

MEMORANDUM

TO: Air Quality Board

THROUGH: Richard Sprott, Executive Secretary

FROM: Colleen Delaney, Environmental Scientist

DATE: March 26, 2007

SUBJECT: Propose for Public Comment: R307-405. *Permits: Major Sources in Attainment or Unclassified Areas (PSD)*

The federal Prevention of Significant Deterioration (PSD) permitting program in 40 CFR 52.21 is incorporated by reference into R307-405. The attached rule change updates the incorporation by reference to the most recent version of the CFR, dated July 1, 2006. The following updates to 40 CFR 52.21 will be included.

1. On November 29, 2005, the Environmental Protection Agency (EPA) finalized rules to implement the 8-hour ozone National Ambient Air Quality Standard. As part of this rulemaking, EPA made minor changes to the federal PSD rules to add NO_x as a precursor to ozone.
2. A minor correction to 52.21 was published in the Federal Register on June 22, 2005 to remove paragraphs (b)(2)(iii)(h)(1) and (2). These paragraphs were not previously incorporated into R307-405 so this change has no practical effect in Utah.

There are a number of other changes to the rule text that are required because of the change in the incorporation date. These changes are not substantive.

1. On October 27, 2003 EPA promulgated the Equipment Replacement Provision of the Routine Maintenance, Repair and Replacement Exclusion. On March 17, 2006 the DC

Circuit Court of Appeals vacated these new provisions. The incorporated text in R307-405 has been modified to remove the provisions that were vacated by the DC Court of Appeals. This is not a substantive change because Utah's PSD rule was based on an earlier version of the federal rule and therefore did not contain the Equipment Replacement Provisions.

2. The incorporation by reference of the definitions of "emissions unit" and "replacement unit," effective January 6, 2004 is no longer required as a separate incorporation because these definitions are included in the July 1, 2006 version of the federal rule. In addition, paragraph 40 CFR 52.21(aa)(6)(ii) that was added in the January 6, 2004 version of the CFR does not need to be incorporated separately from the rest of section (aa).

Finally, a numbering error in R307-405-3 was corrected by moving the definition of "air quality related values" to become paragraph (3) instead of paragraph (2).

Recommendation: Staff recommends that R307-405 be proposed for public comment to update the incorporation by reference to the most recent version of 40 CFR 52.21. A copy of the proposal is attached.